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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Case No. **C99-00180 M**

Plaintiff,

v.

RODOLFO DIAZ
aka RODOLFO DIAZ, JR.,

Defendant,

**WRIT OF CONTINUING
GARNISHMENT**

and

ALBERTSONS COMPANIES, INC.,

Garnishee.

/

TO: Payroll Department
ALBERTSONS COMPANIES, INC.
250 East Parkcenter Boulevard
Boise, ID 83706

YOU ARE HEREBY COMMANDED TO GARNISH FOR THE BENEFIT OF
THE UNITED STATES OF AMERICA THE WAGES, SALARY, OR COMMISSION IN
YOUR CUSTODY, CONTROL, OR POSSESSION IN WHICH THE DEFENDANT-
JUDGMENT DEBTOR HAS AN OWNERSHIP INTEREST.

The name, SSN XXX-XX-4101, and last known address of the person who is

1 the defendant-judgment debtor (hereinafter "debtor") in this action and whose property
2 is subject to this Writ are as follows:

3 RODOLFO DIAZ aka RODOLFO DIAZ, JR.
4 535 3rd Street
5 Paso Robles, CA 93446

6 This Writ has been issued at the request of the United States of America to
7 enforce the collection of a civil judgment entered in favor of the United States against
8 the debtor for a defaulted student loan in the amount of \$4,616.39. There is a balance
9 of \$11,359.46 due on the judgment, which amount includes costs and interest
computed through October 15, 2019; interest continues to accrue until paid in full.

10 The following are the steps that you must take to comply with this Writ. If you
11 have any questions, you should consult with your attorney.

12 1. Pursuant to 28 U.S.C. § 3205(c)(2)(F), if you have in your custody, control,
13 or possession any property of the debtor, including wages, salary, or commissions, in
14 which the debtor has a substantial nonexempt interest, or if you obtain custody,
15 control, or possession of such property while this Writ is in effect, you must
16 immediately withhold such property from the debtor and retain it in your possession
17 until you receive instructions from the Court which will tell you what to do with the
18 property. The United States has requested that the sum of 25% of the debtor's
19 disposable earnings, which under California law represents the nonexempt portion of
20 the debtor's earnings, be withheld from the defendant's earnings.

21 2. Pursuant to 28 U.S.C. § 3205(c)(2)(E), you are required to answer this Writ
22 within 10 days after service of this Writ upon you. You must answer the Writ even if
23 you do not have in your custody, control, or possession any property of the debtor.
24 Pursuant to 28 U.S.C. § 3205(c)(4), your answer must state, under oath, the following
25 information:

26 a. Whether or not you have in your custody, control, or possession, any
27 property owned by the debtor in which the debtor has a substantial

1 nonexempt interest, including nonexempt, disposable earnings;

2 b. a description of such property and the value of such property;

3 c. a description of any previous garnishments to which such property is

4 subject and the extent to which any remaining property is not exempt;

5 and

6 d. the amount of the funds you anticipate owing to the debtor in the future

7 and whether the period for payment will be weekly or another specified

8 period.

9 For your convenience, a form which addresses the above-requested information is
10 attached and may be used to Answer the Writ.

11 3. After you complete the answer under oath, pursuant to 28 U.S.C. §
12 3205(c)(2)(E) & (c)(4), within ten (10) days after service of this Writ upon you, you
13 must mail or deliver the original Answer bearing the original signature of the person
14 preparing the answer to the Court at the following address:

Civil Clerk, United States District Court
450 Golden Gate Avenue, 16th Floor
San Francisco, CA 94102

17 At the same time that you mail or deliver the original answer to the Court, you must
18 also mail or deliver a copy of the original Answer to both the debtor and attorney for
19 the United States at the following respective addresses:

20 RODOLFO DIAZ aka RODOLFO DIAZ, JR.
535 3rd Street
21 Paso Robles, CA 93446

22 Michael Cosentino, Counsel for the United States
P.O. Box 129
23 Alameda, CA 94501

24 Please note that the attached form Answer contains a certificate of service which
25 needs to be completed by the person mailing the copies of the answer to the debtor
26 and the attorney for the United States, and which needs to be filed along with the
27 Answer.

1 **IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD PROPERTY**
2 **IN ACCORDANCE WITH THIS WRIT, THE UNITED STATES MAY PETITION THE**
3 **COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO**
4 **ANSWER THE WRIT AND TO WITHHOLD PROPERTY IN ACCORDANCE WITH**
5 **THE WRIT BEFORE THE APPEARANCE DATE. IF YOU FAIL TO APPEAR OR DO**
6 **APPEAR AND FAIL TO SHOW GOOD CAUSE WHY YOU FAILED TO COMPLY**
7 **WITH THIS WRIT, THE COURT WILL ENTER A JUDGMENT AGAINST YOU FOR**
8 **THE VALUE OF THE DEBTOR'S NONEXEMPT INTEREST IN SUCH PROPERTY**
9 **(INCLUDING NONEXEMPT DISPOSABLE EARNINGS). THE COURT MAY ALSO**
10 **AWARD A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AND**
11 **AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN THE TIME SPECIFIED**
12 **HEREIN AND IF THE UNITED STATES FILES A PETITION REQUIRING YOU TO**
13 **APPEAR.**

14 SUSAN Y. SOONG, Clerk
15 United States District Court
16 for the Northern District of California

17 Dated: 10/23/2019

18 By: 
19 Deputy Clerk Mark Romyn



1
2 DO NOT WITHHOLD THE EXEMPT PORTION OF THE EMPLOYEE'S EARNINGS

3 1. Earnings include any money (whether called wages, salary, commissions,
4 bonuses, or anything else) paid for personal services, pension, or retirement.
5 Vacation or sick pay is earnings subject to withholding as it is *received* by the
6 employee.

7 2. Disposable earnings are different from gross pay or take-home pay. They
8 are the earnings left after deducting the part which state or federal law requires an
9 employer to withhold as mandatory deductions. Generally, these mandatory
10 deductions are federal income tax, social security (FICA) tax, state income tax, state
11 disability insurance, and payments to public employee retirement systems.
12 Disposable earnings can change from pay period to pay period, whenever gross pay
13 or required deductions change.

14 To determine earnings that¹ are eligible for withholding, and therefore must be
15 withheld, see the chart below.

16 USE THE CHART BELOW TO DETERMINE NONEXEMPT DISPOSABLE
17 EARNINGS AND THE APPLICABLE WITHHOLDING AMOUNT¹ :

Pay Period: Weekly or oftener	Every 2 weeks	Twice a month	Once a month
Disposable earnings: \$ 0 to \$217.50	\$ 0 to \$435.00	\$ 0 to \$471.25	\$ 0 to \$942.50
Withhold: Nothing (entire earnings are exempt)			
Disposable earnings: \$217.51 to \$290.00	\$435.01 to \$580.00	\$471.26 to \$628.33	\$942.51 to \$1,256.67
Withhold: Amt. over \$217.50	Amt. over \$435.00	Amt. over \$471.25	Amt. over \$942.50
Disposable earnings: \$290.01 or more	\$580.01 or more	\$628.34 or more	\$1,256.68 or more
Withhold: 25% of disposable earnings (balance is exempt)			

28 ¹Based on the Federal Minimum Wage Earnings of \$7.25 an hour, effective 07/24/2009

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. C99-00180 M
v.)
RODOLFO DIAZ)
aka RODOLFO DIAZ, JR.,)
Defendant,)
and)
ALBERTSONS COMPANIES, INC.,) **ANSWER OF GARNISHEE**
Garnishee.)

21 I, [REDACTED], being first duly sworn, hereby state the following:

22 1. I am the _____ (Official Title) of the Garnishee
23 named in the above caption. I am authorized to prepare this Answer on behalf of the
24 Garnishee

27 3. The Garnishee currently has custody, control, or possession of earnings of
28 the Defendant. Yes No

4. The Garnishee expects to obtain custody, control, or possession of earnings of the Defendant in the foreseeable future. Yes No

3 5. For the pay period in effect on the date of service of this Writ of Continuing
4 Garnishment, the Garnishee states as follows:

5 a. Defendant was in my/our employ. Yes No

6 b. The Defendant's pay period is _____ weekly, _____ bi-weekly,
7 semi-monthly, monthly.

8 c. The Defendant's present pay period began on _____ (date).
9 ("Present" means the pay period in which the Writ of Continuing
Garnishment was served.)

10 d. The Defendant's present pay period ends on _____ (date).

11 e. The Defendant's net wages are as calculated below:

12 (1) Gross Pay \$ _____

13 (2) Federal income tax \$ _____

14 (3) F.I.C.A. tax \$ _____

15 (4) State income tax \$ _____

16 (5) SDI \$ _____

17 Total tax withholdings \$ _____

18 Net Wages \$ _____
19 (gross pay minus above withheld taxes)

6. Are there any other garnishments currently in effect? Yes No

If the answers is yes, describe below and attach to this Answer a copy of each garnishment:

24 | Page

25 | Page

25

26 7 Will the Garnishee owe the Defendant money in the foreseeable future?

27 Yes No If the answer is yes, provide the reason why such money will be

1 owed, the amount of money that will be owed, and the date or dates on which each
2 payment will be due:

<u>Type of Payment</u>	<u>Amount</u>	<u>Date Payment Will be Due</u>
1.		
2.		
3.		

8 8. Does the Garnishee currently have custody, control or possession of property
9 (other than earnings) such as bank accounts, pensions, thrift plans, etc., in which the
10 Defendant maintains an interest? Yes _____ No _____ If the answer is yes, then
11 provide the following information for each item of such property:

<u>Description of Property</u>	<u>Approximate Value</u>	<u>Description of Defendant's Interest</u>
1.		
2.		
3.		
4.		

18 9. Does the Garnishee expect to obtain in the foreseeable future custody,
19 control or possession of property (other than earnings) such as bank accounts,
20 pensions, thrift plans, etc., in which the Defendant maintains an interest? Yes _____
21 No _____ If the answer is yes, then provide the following information for each item of
22 such property:

<u>Description of Property</u>	<u>Approximate Value</u>	<u>Description of Defendant's Interest</u>	<u>Date Will Obtain Property</u>
1.			
2.			
3.			
4.			

1 10. Does the Garnishee have any objections or defenses to the Writ of
2 Continuing Garnishment? Yes No If the answer is yes, list the nature
3 and basis of each objection and/or defense:

4 _____
5 _____
6 _____
7 _____
8 _____

9 On behalf of ALBERTSONS COMPANIES, INC., I hereby certify under penalty of
10 perjury under the laws of the United States of America that the foregoing is true and
11 correct.

12
13 Telephone # _____

14
15 Fax # _____

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18 Dated: _____ By: _____

19
20 (Sign above and type or print name below)

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CERTIFICATE OF SERVICE

I, _____, declare:

That I am a citizen of the United States and employed in the County of

_____, Idaho; that my business address is

_____ ; that I am

over the age of eighteen years; and that I am not a party to the above-entitled action;

That on _____ (date), I deposited in the United States mail, in

envelopes bearing the requisite postage, a copy of:

ANSWER OF GARNISHEE

10 addressed to each of the following, at their last known addresses, at which place there
11 is service by United States mail.

12 RODOLFO DIAZ aka RODOLFO DIAZ, JR.
535 3rd Street
13 Paso Robles, CA 93446

14 Michael Cosentino
Counsel for the United States
15 P.O. Box 129
Alameda, CA 94501

17 I have caused, or will cause, the original of the ANSWER OF GARNISHEE to be
18 filed in the United States District Court pursuant to the instruction for same in
19 paragraph # 3 of the Writ.

20 This Certificate was executed on _____ (date),

21 at _____ (city), _____ (state).

22 I certify under penalty of perjury that the foregoing is true and correct.

(sign above the line and type or print name below)